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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2092

JOVEN GALINATO NAVAL  
3912 Glacier Ct  
Vallejo CA 94591

**A C C U S A T I O N**

Respiratory Care Practitioner License No. 18948

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about September 11, 1996, the Respiratory Care Board issued Respiratory Care Practitioner License Number 18948 to Joven Galinato Naval (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2008, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2           4.       Section 3710 of the Code states: “The Respiratory Care Board of  
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
4 8.3, the Respiratory Care Practice Act].”

5           5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7           6.       Section 3750 of the Code states:

8           “The board may order the denial, suspension or revocation of, or the imposition of  
9 probationary conditions upon, a license issued under this chapter, for any of the following  
10 causes:

11           “(d) Conviction of a crime that substantially relates to the qualifications,  
12 functions, or duties of a respiratory care practitioner. The record of conviction or a  
13 certified copy thereof shall be conclusive evidence of the conviction.”

14           “(g) Conviction of a violation of any of the provisions of this chapter or of any  
15 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
16 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to  
17 violate any provision or term of this chapter or of any provision of Division 2  
18 (commencing with Section 500).”

19           “(j) The commission of any fraudulent, dishonest, or corrupt act which is  
20 substantially related to the qualifications, functions, or duties of a respiratory care  
21 practitioner.”

22           7.       Section 3750.5 of the Code states:

23           “In addition to any other grounds specified in this chapter, the board may deny,  
24 suspend, or revoke the license of any applicant or license holder who has done any of the  
25 following:

26           “(a) Obtained or possessed in violation of law, or except as directed by a licensed  
27 physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or  
28 administered to another, any controlled substances as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2  
2 (commencing with section 4015) of Chapter 9.

3 8. Section 3752 of the Code states:

4 “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
5 made to a charge of any offense which substantially relates to the qualifications,  
6 functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
7 the meaning of this article. The board shall order the license suspended or revoked, or  
8 may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
9 conviction has been affirmed on appeal or when an order granting probation is made  
10 suspending the imposition of sentence, irrespective of a subsequent order under Section  
11 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
12 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
13 accusation, information, or indictment.”

14 9. Section 3755 of the Code states:

15 “The Board may take action against any respiratory care practitioner who is  
16 charged with unprofessional conduct in administering, or attempting to administer, direct  
17 or indirect respiratory care...The Board may determine unprofessional conduct involving  
18 any and all aspects of respiratory care performed by anyone licensed as a respiratory care  
19 practitioner...”

20 10. California Code of Regulations, title 16, section 1399.370, states:

21 “For the purposes of denial, suspension, or revocation of a license, a crime or act  
22 shall be considered to be substantially related to the qualifications, functions or duties of  
23 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
24 perform the functions authorized by his or her license or in a manner inconsistent with the  
25 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
26 those involving the following:

27 “(a) Violating or attempting to violate, directly or indirectly, or assisting or  
28 abetting the violation of or conspiring to violate any provision or term of the Act.”

1 COST RECOVERY

2 11. Section 3753.5, subdivision (a) of the Code states:

3 "In any order issued in resolution of a disciplinary proceeding before the board,  
4 the board or the administrative law judge may direct any practitioner or applicant found to have  
5 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
6 investigation and prosecution of the case."

7 12. Section 3753.7 of the Code states:

8 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
9 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
10 administrative, filing, and service fees."

11 13. Section 3753.1 of the Code states:

12 "(a) An administrative disciplinary decision imposing terms of probation may  
13 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
14 associated with monitoring the probation. "

15 September 28, 2004 Search

16 14. On or about September 28, 2004, Solano County Sheriff J. Carden served  
17 a search warrant at respondent's residence to recover stolen property taken in a burglary which  
18 occurred on September 17, 2004. The search warrant described several pieces of jewelry. Before  
19 Sheriff Carden entered the residence, he saw respondent coming out of the garage and detained  
20 him. Sheriff Carden advised respondent of the warrant, and asked him if he had any stolen  
21 jewelry in the house or any illegal items that he wanted to declare. Respondent said, "No."

22 15. A search warrant team of eight officers proceeded to search the residence.  
23 The officers located the majority of the jewelry listed on the search warrant. Officer Marshall, a  
24 drug enforcement officer, found a small ziplock baggie containing a white crystalline substance  
25 on a nightstand in the master bedroom. Based on his training and experience, he recognized it as  
26 methamphetamine. The substance was later tested and found to be positive for the presence of  
27 methamphetamine, and weighed approximately 0.1 grams.

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1           16.     Officer Marshall found a sawed off shotgun in the master bedroom closet.  
2     Ammunition was located in the bedroom and garage. He found a glass tubular pipe, commonly  
3     used for smoking methamphetamine, located on the pool table in the garage.

4           17.     Two motorcycles were found on respondent's property. The identification  
5     numbers were verified as stolen vehicles. Officers also located a bicycle, identified as stolen.  
6     Officers found a DVD player, mag light, and a wallet containing a driver's license and ID cards  
7     for a Richmond Police Officer. A neighbor identified the DVD player and mag light as items  
8     stolen from her residence. The Richmond Police Officer stated that his license and ID cards  
9     were stolen in a vehicle burglary two weeks prior to the execution of the search warrant.

10                                 FIRST CAUSE FOR DISCIPLINE

11                                 (Possession of a controlled substance)

12           18.     Paragraphs 14 through 16 above are incorporated herein.

13           19.     Respondent is subject to disciplinary action under section 3750.5(a),  
14     possession of a controlled substance, because he was in possession of methamphetamine, a  
15     Schedule II controlled substance.

16                                 SECOND CAUSE FOR DISCIPLINE

17                                 (Conviction)

18           20.     Paragraphs 14 through 17 above are incorporated herein.

19           21.     Respondent is subject to disciplinary action under section 3750(d) and  
20     3752 in that he was convicted of a substantially related crime:

21           22.     On or about June 19, 2006, respondent entered a plea of nolo contendere  
22     to violating Penal Code section 12020(a), possession of a short-barreled shotgun, a felony. The  
23     Court accepted the plea and respondent was convicted of the charge. On October 3, 2006, an  
24     Order of Probation was entered. Respondent was placed on formal probation for three years, and  
25     ordered to serve one hundred eighty (180) days in county jail with two (2) days credit for time  
26     served.

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1                   23.     Therefore, respondent's license is subject to discipline based on his  
2 conviction of violating Penal Code section 12020(a), possession of a short-barreled shotgun, a  
3 felony, which is substantially related to the practice of respiratory care.

4                                   THIRD CAUSE FOR DISCIPLINE

5   (Dishonest Act)

6                   24.     Paragraphs 14 through 17 are incorporated herein.

7                   25.     Respondent is subject to discipline pursuant to Business & Professions  
8 code section 3750(j) [dishonest act] in that on September 28, 2004, when Solano County Sheriff  
9 J. Carden asked respondent if he had any stolen jewelry in the house or any illegal items that he  
10 wanted to declare, Respondent answered, "No." However, a search warrant team located a  
11 majority of jewelry listed in the search warrant, 0.1 grams of methamphetamine, a controlled  
12 substance not legally prescribed to respondent, vehicles and other property later identified as  
13 stolen property.

14                                   FOURTH CAUSE FOR DISCIPLINE

15   (Unprofessional conduct)

16                   26.     Paragraphs 14 through 17 are incorporated herein.

17                   27.     The above-listed acts constitute cause for discipline as a violation of  
18 Business & Professions code section 3755, unprofessional conduct.

19                                   PRAYER

20                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
21 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

22                   1.     Revoking or suspending Respiratory Care Practitioner License Number  
23 18948, issued to Joven Galinato Naval.

24                   2.     Ordering Joven Galinato Naval to pay the Respiratory Care Board the  
25 costs of the investigation and enforcement of this case, and if placed on probation, the costs of  
26 probation monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: July 10, 2007

Original signed by Liane Zimmerman for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant